



**STATE OF TENNESSEE**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**Division of Underground Storage Tanks**  
**William R. Snodgrass Tennessee Tower**  
**312 Rosa L. Parks Avenue, 12<sup>th</sup> Floor**  
**Nashville, Tennessee 37243**

May 26, 2021

H and A Enterprise, Inc.  
1465 South 3<sup>rd</sup> Street  
Memphis, Tennessee 38106

Served via Private Process Server

Yasser Alnajjar  
1465 South 3rd Street  
Memphis, Tennessee 38106

Served via Private Process Server

Re: Quick Mini Mart  
1465 South Third Street  
Memphis, Tennessee 38106  
Facility ID # 9-791966  
Case # UST21-0037

Dear Yasser Alnajjar:

Enclosed is an Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. The Order cites operational violations discovered at the facility during an inspection conducted on October 12, 2020. The Order requires you to take corrective action to bring the facility into operational compliance. The following actions must be taken to bring the facility into compliance:

1. Repair the damaged shear valve under dispenser 1/2.

Because there is outstanding noncompliance, if this Order becomes final, then the facility will be placed on the petroleum **Delivery Prohibition List**. Red Tags will be installed at the fill ports and dispensers at the facility. Upon completion of the necessary corrective action, documentation establishing the return to compliance shall be submitted to the Division.

Submit the required compliance documentation to:

Mark Brinton  
Division of Underground Storage Tanks  
711 R. S. Gass Boulevard  
Nashville, Tennessee 37216

A civil penalty of \$2,400.00 has been assessed against you based on the violations. The civil penalty is calculated as follows:

Violation #1: Failure to install other system parts in accordance with manufacturer's installation instructions in accordance with rule 0400-18-01-.02(1)(b). Specifically, at the time of inspection, the shear valve under dispenser 1/2 was damaged and needed to be replaced.

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$2,000.00	1	\$2,000.00

Violation #2: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).

<u>Individual Civil Penalty Amount for Violation</u>	<u>Multiplication Factor</u>	<u>Total Penalty Civil Penalty</u>
\$400.00	1	\$400.00

**Total Amount of your Civil Penalty: \$2,400.00**

Payment of the civil penalty shall be submitted to the following address:

Department of Environment & Conservation  
Division of Fiscal Services – Fee Section  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 10<sup>th</sup> Floor  
Nashville, Tennessee 37243

Payment shall be made payable to the "Treasurer, State of Tennessee." The case number shown on the first page of the enclosed Order should be written on said payment(s).

The appeal period is limited. **Carefully read the Notice of Rights contained in the Order.** An appeal must be in writing and received within 30 days after you receive this Order. If you do not submit a timely appeal, then the entire civil penalty amount of \$2,400.00 will become final, due to be paid, and subject to collection.

If you have any questions about this matter, please contact Mark Brinton at Mark.Brinton@tn.gov or (615) 969-0446.

Sincerely,



Stanley R. Boyd  
Director

cc: Enforcement File  
Memphis Environmental Field Office

**STATE OF TENNESSEE**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF UNDERGROUND</b>
	)	<b>STORAGE TANKS</b>
<b>H AND A ENTERPRISE INC.</b>	)	
<b>YASSER ALNAJJAR</b>	)	<b>CASE NO. UST21-0037</b>
<b>RESPONDENTS</b>	)	<b>FACILITY: QUICK MINI MART</b>

**ORDER AND ASSESSMENT**

NOW COMES David W. Salyers, P.E., Commissioner of the Tennessee Department of Environment and Conservation ("Commissioner"), and states:

**PARTIES**

**I.**

David W Salyers, P.E. is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation ("Department"), and among other duties and responsibilities, he is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act ("Act"), Tenn. Code Ann. sections 68-215-101 to -129. Stanley R. Boyd is the duly appointed Director ("Director") of the Underground Storage Tank Division ("Division"). He has received written delegation from the Commissioner to administer and enforce aspects of the Act.

**II.**

H and A Enterprise, Inc. ("Respondent Inc.") is an inactive corporation created in the State of Tennessee. The Tennessee Secretary of State administratively dissolved Respondent Inc.'s charter on October 2, 2019. Respondent Inc. is the registered owner of three underground storage tank ("UST") systems located at 1465 South 3rd Street, Memphis, Tennessee 38106. Service of process may be made on the Respondent Inc.'s Registered Agent, Yasser Alnajjar, at 1465 South 3rd Street, Memphis, Tennessee 38106.

### **III.**

Yasser Alnajjar ("Respondent Alnajjar") is an individual. Respondent Alnajjar is an operator of the three UST systems located at 1465 South 3rd Street, Memphis, Tennessee 38106. Service of process may be made on the Respondent Alnajjar at 1465 South 3rd Street, Memphis, Tennessee 38106.

### **JURISDICTION**

#### **IV.**

When the Commissioner finds upon investigation that any provision of the Act is not being carried out, and that effective measures are not being taken to comply with the provisions of the Act, the Commissioner may issue an Order for correction to the responsible party, and this Order shall be complied with within the time limit specified in the Order. Tenn. Code Ann. § 68-215-114. If this Order becomes final, the Commissioner may red tag the facility fill ports and/or dispensers and give notice on the Department's website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). Further, the Commissioner is authorized to assess civil penalties against any person who violates or fails to comply with the Act. Tenn. Code Ann. § 68-215-121. Rules governing USTs have been promulgated pursuant to Tenn. Code Ann. § 68-215-107(f) and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules").

#### **V.**

The Respondent is a person as defined at Tenn. Code Ann. section 68-215-103(11) and has violated the Act as hereinafter stated.

### **FACTS**

#### **VI.**

On or about February 19, 2015, the Division received a Notification for Underground Storage Tanks form, signed by Respondent Alnajjar, listing the Respondent Inc. as the owner of the three UST systems located at 1465 South 3rd Street, Memphis, Tennessee 38106. The facility ID number is 9-791966.

#### **VII.**

On or about September 9, 2020, Division personnel contacted Tim Wilson with Compliance Testing & Technology by phone and scheduled a compliance inspection to be conducted on October 12, 2020. On or about September 21, 2020, Division personnel also sent a letter confirming the inspection date.

**VIII.**

On or about October 12, 2020, Division personnel performed a compliance inspection at the subject facility. The inspector discovered the following violation:

Violation #1: Failure to install other system parts in accordance with manufacturer's installation instructions in accordance with Rule 0400-18-01-.02(1)(b). Specifically, at the time of inspection, the shear valve under dispenser 1/2 was damaged and needed to be replaced.

**IX.**

On or about October 20, 2020, Division personnel sent a Results of Compliance Inspection – Action Required letter to the facility. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by November 19, 2020, to document correction of the violation.

**X.**

On or about November 25, 2020, Division personnel sent a Results of Compliance Inspection – Action Required letter to the facility. The letter cited the violation discovered during the inspection and required the Respondent to submit documentation to the Division by December 28, 2020, to document correction of the violation.

**XI.**

On or about January 7, 2021, Division personnel sent a Follow-up Letter and Enforcement Action Notice certified letter to Respondent Inc. The letter cited the violation discovered during the inspection and the Respondent's failure to return to compliance.

**XII.**

Upon further review, the following violations were added:

Violation #2: Failure to pay fees, penalties, and interest on a tank in accordance with Tenn. Code Ann § 68-215-104 and -109. Specifically, the facility had not paid the tank fees for 2021.

**XIII.**

On or about February 2, 2021, Division personnel sent a Notice of Violation to the Registered Agent. The letter cited the outstanding violations and required Respondent Inc. to submit documentation to the Division by March 4, 2021, to document correction of the violations.

**XIV.**

When the Respondents failed to meet the March 4, 2021 deadline, the following violation was added:

Violation #4: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).

**XV.**

On or about May 24, 2021, the 2021 tank fees were paid. To date, the Respondents have not cooperated the with Division on the addressing remaining violations and remains in non-compliance.

**VIOLATIONS**

**XVI.**

By failing to operate a petroleum underground storage tank system in compliance with the Act, the Respondent has violated Tenn. Code Ann. section 68-215-104(2), which states:

It is unlawful to: Construct, alter or operate a petroleum underground storage tank in violation of this chapter or the rules or regulations established pursuant thereto;

**XVII.**

By failing to install other system parts in accordance with manufacturer's installation instructions, the Respondent has violated Rule 0400-18-01-.02(1)(b), which states:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

- (1) Installation.
- (b) All underground storage tank systems shall be installed in accordance with the manufacturer's installation instructions.

**XVIII.**

By failing to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division, the Respondent has violated Rule 0400-18-01-.03(2), which states:

0400-18-01-.03 Notification, Reporting and Record Keeping.

- (2) Reporting and record keeping.  
Owners, operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the division, as well as requests for

document submission, testing, and monitoring by the owner, operator, and/or other responsible parties in accordance with the Tennessee Petroleum Underground Storage Tank Act Tenn. Code Ann. §68-215-101 et seq.

### **ORDER AND ASSESSMENT**

#### **XIX.**

Pursuant to the authority vested by Tenn. Code Ann. sections 68-215-107, -114, and -121,

I, Stanley R. Boyd, acting as the authorized representative of the Commissioner, hereby issue the following Order and Assessment to the Respondent:

1. If the Respondents fails to comply with this order and/or file an appeal within the timeframes stated below, **the above referenced facility will be placed on the Delivery Prohibition List and the fill ports and dispensers will be red tagged until compliance is achieved.** Tenn. Code Ann. § 68-215-106(c).
2. The Respondents shall perform all actions necessary to correct the outstanding violations and to bring the facility into full compliance with regulatory requirements. The Respondent shall provide the Division with documentation of the corrective action performed; the documentation shall be sufficient to establish a return to full compliance.
  - i. On or before the thirtieth day after receipt of this Order, the Respondent shall repair the damaged shear valve under dispenser 1/2.
3. On or before the thirtieth day after receipt of this Order, the Respondents shall pay a total civil penalty in the amount of \$2,400.00. This amount consists of the following:
  - i. One violation assessed at \$2,000.00 per for failing to install other system parts in accordance with manufacturer's installation instructions in accordance with rule 0400-18-01-.02(1)(b).
  - ii. One violation assessed at \$400.00 for failing to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2).
4. The Respondents is advised that the foregoing Order is not in any way to be construed as a waiver, express or implied, of any provision of the law or regulations, including but not limited to, future enforcement for violations of the Act and Regulations which are not charged as violations in this Order. However, compliance with the Order will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.

5. **Failure to comply with any of the requirements of this Order could lead to further enforcement actions which may include additional civil penalties, assessment of damages and/or recovery of costs.**
6. For good cause shown by the Respondents, the Director may extend the compliance dates contained within this Order for a fixed time period. To be eligible for this time extension, the Respondents shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay. The Director will reply to the Respondents' request in writing, establishing a new deadline for compliance with this Order. Should the Respondents fail to meet the requirements of this Order by the new deadline, then any associated civil penalty shall be due within 30 days after that deadline.

### **RESERVATION OF RIGHTS**

In issuing this Order and Assessment, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

### **NOTICE OF RIGHTS**

The Respondent(s) may appeal this Order and Assessment. Tenn. Code Ann. §68-215-119. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within 30 days of the date the Respondent(s) received this Order and Assessment or this Order and Assessment will become final.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 69-215-119; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 1360-04-01 (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny the Order and Assessment. Furthermore, the ALJ on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Tennessee Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243-1548. The petition may be mailed or delivered to this address, or it may be sent to TDEC.Appeals@tn.gov. Payments of the civil penalty and/or damages shall be made payable to the

“Treasurer, State of Tennessee” and sent to the Division of Fiscal Services – Consolidated Fees Section, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Mark Brinton, State of Tennessee, Division of Underground Storage Tanks, 711 R. S. Gass Boulevard, Nashville, TN 37243. Attorneys should contact the undersigned counsel of record. **The case number, UST21-0037, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Underground Storage Tanks, Tennessee Department of Environment and Conservation, on this 26th day of May, 2021.



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Stanley R. Boyd, Director  
Division of Underground Storage Tanks  
TN Department of Environment and Conservation

Reviewed by:



Ashley Ball (May 26, 2021 15:00 CDT)

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Ashley J. Ball  
BPR# 025250  
Senior Associate Counsel  
Department of Environment & Conservation  
312 Rosa L. Parks Avenue, 2d Floor  
Nashville, Tennessee 37243  
615-532-0142  
[Ashley.Ball@tn.gov](mailto:Ashley.Ball@tn.gov)